

## Message Text

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TO AMEMBASSY NASSAU

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EO 11652: NA

TAGS: PFOR (SAUNDERS, RACHEL EURE)

SUBJECT: DIPLOMATIC PRIVILEGES AND IMMUNITIES FOR US

CITIZEN SPOUSES OF FOREIGN DIPLOMATS ASSIGNED

TO THE UNITED STATES

REFERENCE: NASSAU 122

1. REFTEL REQUESTED DEPARTMENT GUIDANCE ON QUESTION OF WHETHER US CITIZEN SPOUSE OF BAHAMIAN DIPLOMAT ASSIGNED TO WASHINGTON WOULD BE ENTITLED TO DIPLOMATIC PRIVILEGES AND IMMUNITIES. UNDER CURRENTLY PREVAILING NORMS OF INTERNATIONAL LAW, AS EMBODIED IN THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS OF 1961, PERSONS WHO ARE MEMBERS OF THE FAMILY OF A DIPLOMATIC AGENT WHO ARE ALSO NATIONALS OR PERMANENT RESIDENTS OF THE RECEIVING STATE ARE NOT EXTENDED THE PRIVILEGES AND IMMUNITIES TO WHICH DIPLOMATIC AGENTS ARE GENERALLY ENTITLED. (SEE ARTICLES 37 AND 38) WHILE CURRENT U.S. LAW AND PRACTICE REFLECT A SOMEWHAT DIFFERENT STANDARD, THE UNITED STATES IS IN PROCESS OF CONFORMING ITS PRACTICE IN THIS REGARD WITH THAT OUTLINED IN THE VIENNA CONVENTION.

2. IT HAS NOT BEEN U.S. POLICY TO ASSERT SPECIFIC PRIVILEGES AND IMMUNITIES FOR EITHER U.S. NATIONALS OR PERMANENT RESIDENTS WHO WOULD OTHERWISE BE ENTITLED TO

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DIPLOMATIC PRIVILEGES AND IMMUNITIES BY VIRTUE OF THEIR

STATUS AS REPRESENTATIVES OF A FOREIGN GOVERNMENT. THE GENERAL IMMUNITY STATUTE APPLICABLE TO DIPLOMATIC OFFICERS AND THEIR FAMILIES, 22 USC, SECS. 252-254, DOES NOT SPECIFICALLY EXCLUDE U.S. NATIONALS FROM ITS COVERAGE. HOWEVER, IT HAS BEEN A DEPARTMENT PRACTICE NOT TO ASSERT IMMUNITY FOR SPOUSES OF THE DIPLOMATIC REPRESENTATIVES WHO ARE ALSO NATIONALS OF OR PERMANENT RESIDENTS OF THE U.S.

3. DEPARTMENT AGREES THAT IF PERMANENT RESIDENTS ARE REQUIRED TO WAIVE PRIVILEGES AND IMMUNITIES TO WHICH THEY WOULD OTHERWISE BE ENTITLED BY VIRTUE OF DIPLOMATIC STATUS, THEN THE SAME CONDITION SHOULD APPLY TO US CITIZENS. WITH RESPECT TO THE REMAINING DIFFERENCE BETWEEN THE INTERNATIONAL LAW RULE AND THE U.S. DOMESTIC STATUTE, EMBASSY SHOULD BE AWARE THAT THE DEPARTMENT HAS RECOMMENDED REPEAL OF THE ABOVE-MENTIONED STATUTE, WHICH HOPEFULLY WILL BE ACHIEVED DURING THE CURRENT SESSION OF CONGRESS.

4. IN VIEW OF THE ABOVE, IT IS SUGGESTED THAT THE EMBASSY ADVISE MRS. SAUNDERS THAT, AS A U.S. CITIZEN, SHE WOULD NOT BE ENTITLED TO SPECIFIC PRIVILEGES AND IMMUNITIES ORDINARILY EXTENDED TO SPOUSES OF DIPLOMATIC AGENTS. OF COURSE, CERTAIN PRIVILEGES ARE ACCORDED TO SPOUSES ON AN INDIRECT BASIS BY VIRTUE OF THEIR FAMILY RELATIONSHIP (E.G., FREE ENTRY FOR GOODS FOR PERSONAL CONSUMPTION OF A DIPLOMATIC AGENT AND HIS FAMILY). HOWEVER, THESE BENEFITS DO NOT STEM FROM POSITIVE ACTION ON THE PART OF THE USG. RUSH

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